PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

LAW SECRETARIAT.

NOTIFICATION.

No. LAW 89 LCA 63, Bangalore, dated 9th January 1961.

In pursuance of the adoption of a motion by the Lok Sabha that the Constitution (Amendment) Bill, 1962 (Amendment of articles 136, 226 etc.) by Shri Shree Narayan Das, M. P., be circulated for the purpose of eliciting opinion thereon by the 30th June, 1964, it is hereby ordered that the said Bill be published for general information along with the statement of Objects and Reasons.

Any person or public body desirous of submitting opinion on the provisions of the Bill, may send the same in quadruplicate to the Secretary to Government, Law Department, Vidhana Soudha, Bangalore-1 before the 15th June, 1964 for being forwarded to the Lok Sabha Secretariat.

It is requested that opinion, if any, should not be submitted direct to the Lok Sabha Secretariat or any Ministry of the Government of India.

By Order and in the name of the Government of Mysore,

S. SRIPADARAJ,
Under Secretary to Govt., L. D.

As introduced in Lok Sabha on
16th November, 1962.

Bill No. 74 of 1952

THE CONSTITUTION (AMENDMENT) BILL, 1962

By

SHRI SHREE NARAYAN DAS, M.P.

A

BILL

further to amend the Constitution of India

BE it enacted by Parliment in the Thirteenth Year of the Republic of India as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Constitution (Amendment) Act, 1962.

(*2*) It shall come into force at once.

2. Amendment of article 136.—In article 136 of the Constitution, after clause (2) the following clause shall be inserted, namely:—

"(3) Nothing in clause (1) shall apply to any judgment, decree, determination or order passed or made by any court or tribunal constituted by or under any law relating to election to either House of Parliament or to the House or either House of the Legislature of a State save as provided for by or under any law made by the appropriate Legislature in this respect."

3. Amendment of article 226.—In article 226 of the Constitution, after clause (2) the following clause shall be inserted, namely:—

"(*3*) Nothing in this article shall be deemed to confer on a High Court powers to issue to any authority as may be provided under sub-clause (*b*) of article 329 any directions,

orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* or any of them for the enforcement of any rights other than the rights conferred by Part III save as provided for by or under any law made by the appropriate Legislature in this respect."

4. Amendment of article 227.—In article 227 of the Constitution, after clause (*4*) the following clause shall be inserted, namely :—

"(*5*) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to election to either House of Parliament or to the House or either House of Legislature of a State save as provided for by or under any law made by the appropriate Legislature in this respect."

5. Amendment of article 228.—In article 228 the following proviso shall be added, namely :—

"Provided that nothing in this article shall be deemed to confer on a High Court powers to withdraw any case from any authority as may be provided under sub-clause (*b*) of article 329 save as provided for by or under any law made by the appropriate Legislature."

6. Amendment of article 329.—In article 329 of the Constitution, after sub-clause (*b*) the following sub-clause shall be added, namely :—

"(*c*) No court shall entertain any appeal, revision, writ application or other proceeding of any nature whatsoever against any order passed by any such authority as may be provided under sub-clause (*b*) of this article save as provided for by or under any law made by the appropriate Ligislature."

STATEMENT OF OBJECTS AND REASONS

The scheme of Part XV of the Constitution was framed with the intention that electoral matters should not be questioned in any court and that the election to either House of Parliament or to the either House of the Legislature of a State shall not be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

It is the sole right of the Legislature to examine and determine all matters relating to the election of its own members and it was with this idea and under the scheme of Part XV of the Constitution that the Representation of the People Act, 1951 made elaborate provisions about the constitution of Election Tribunals to deal with election cases. In the original Act there was no provision of any appeal against the order of the Tribunal. Decisions of Election Tribunals were declared to be final and conclusive.

But the High Courts under other provisions of articles 226, 227 and 228 and the Supreme Court under the provisions of articles 132 and 136 entertained appeal, revision, writ application or other proceedings against the order of the Election Tribunals.

All these have led not only to undue delay in disposal of election disputes, but the intention of the Constitution makers in providing special authority for speedy trial of election petition and thus excluding the jurisdiction of courts in electoral matters, has not met with success.

The Bill is intended to exclude the jurisdiction of High Courts and the Supreme Court in election disputes save as provided for by or under any law made by the appropriate Legislature.

NEW DELHI;
The 4th April, 1962.

SHREE NARAYAN DAS.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* *

136. Special leave to appeal by the Supreme Court.—(*1*) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(*2*) Nothing in clause (*1*) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

* * *

226. Power of High Courts to isssue certain writs.—(1) Notwithstanding anything in article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any persons or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus-mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (*1*) shall not be derogation of the power conferred on the Supreme Court by clause (*2*) of article 32.

227. Power of superintendence over all courts by the High Court.—(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(*2*) Without prejudice to the generality of the foregoing provision, the High Court may—

(*a*) call for returns from such courts;

(*b*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(*3*) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms perscribed or tables settled under clause (*2*) or clause (*3*) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

228. Transfer of certain cases to High Court.—If the High Court is satisfied that a case pending in a court sub-ordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(*a*) either dispose of the case itself, or

(*b*) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

* * * *

329. Bar to interference by courts in electoral matters.—Notwithstanding anything in this Constitution—

(*a*) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such

constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(*b*) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in manner as may be provided for by or under any law made by the appropriate Legislature.

*

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.